

STATE OF MICHIGAN
COURT OF APPEALS

MARION STANTON and ANITA AKERS,

Plaintiffs-Appellants/Cross-
Appellees,

v

CHARTER TOWNSHIP OF CANTON,

Defendant-Appellee/Cross
Appellant.

UNPUBLISHED

July 26, 2005

No. 255716

Wayne Circuit Court

LC No. 03-338094-CZ

Before: O’Connell, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Plaintiffs¹ appeal of right the trial court’s order granting summary disposition to defendant. Plaintiffs’ complaint alleges that defendant imposed an illegal tax on them when it required their cable companies to pay a five percent “franchise fee” in exchange for the opportunity to run cable along defendant’s rights of way. Because the franchise agreements at issue were concededly executed in June 1995, and on November 14, 1995, and plaintiffs did not bring suit until November 18, 2003, the one-year limitations period found in MCL 600.308a(3) bars this action. *Morgan v Grand Rapids*, ___ Mich App ___; ___ NW2d ___ (2005) (Docket No. 255311).

Nevertheless, plaintiffs’ claims, while tenuous, were not “devoid of arguable legal merit,” MCL 600.2591(3)(a)(iii), so the trial court correctly denied defendant’s motion for attorney fees. MCL 600.2591; MCR 2.625.

¹ The two named plaintiffs were never granted class certification below, so the term “plaintiffs” refers to them exclusively, and, because there is no class, our holding affects all the claims and disposes of the entire suit.

Affirmed.

/s/ Peter D. O'Connell

/s/ Bill Schuette

I concur in result only.

/s/ Stephen L. Borrello